SAFETEA

Third Cycle STP/CMAQ Project Selection Criteria and Programming Policy

Representing FY 2007-08 and FY 2008-09

Third Cycle STP/CMAQ Policy and Programming

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BACKGROUND

The Third Cycle Project Selection Criteria and Programming Policy guides the programming of a two year increment of federal funding (FY 2007-08 and FY 2008-09), which is authorized by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA). SAFETEA authorizes $255.5 billion in funding for federal surface transportation programs nationwide over five years (fiscal years 2004-05 through 2008-09), an average annual increase of 41 percent over levels in the previous act, the Transportation Equity Act for the 21st Century (TEA-21).

A portion of SAFETEA funding is directed to regional planning agencies, such as MTC, in the State of California for local programming. Among the various transportation programs established by SAFETEA, the Commission has discretion over regional Surface Transportation Program (STP) and Congestion Mitigation and Air Quality Improvement (CMAQ) Program funds. The subject of the *SAFETEA Third Cycle STP/CMAQ Project Selection Criteria and Programming Policy* is how the region is to use this flexible pot of transportation dollars to fund transportation needs in the MTC region and implement the strategies and objectives of the Regional Transportation Plan, also referred as Transportation 2030 (T2030). T2030 is the Bay Area's comprehensive roadmap to guide transportation investments in mass transit, highway, airport, seaport, bicycle and pedestrian projects over 25 years. The programs recommended for funding under the Third Cycle Project Selection Criteria and Programming Policy, as well as those under prior SAFETEA programming cycles are an outgrowth of the transportation needs specifically identified by T2030.

Over the life of SAFETEA, $900 million in STP/CMAQ funding is anticipated to be apportioned to the Metropolitan Transportation Commission. The Commission has already programmed four of the six years represented by SAFETEA, or roughly $600 million: First Cycle, including the Augmentation Round, represented fiscal years 2003-04 and 2004-05, and Second Cycle represented FYs 2005-06 and 2006-07, leaving $300 million for the Third Cycle, representing the final two years, FYs 2007-08 and 2008-09.

The prior two programming cycles continued MTC's practice of proceeding with the advance programming of funds in anticipation of the passage of the upcoming transportation reauthorization act to ensure a continuous and seamless programming process for federal funding. Advance programming of STP/CMAQ funds enables the region to commit funds to projects as soon as funding is made available, and allow sponsors sufficient time to proceed with the projects and meet federal and state (AB 1012) funding deadlines. This strategy of advance programming has been beneficial to the Bay Area by accelerating project delivery and allowing the region to obtain additional obligation authority (OA) from other regions in California.

The region will also continue its practice of programming to the full apportionment level rather than OA levels, with the stipulation that obligations for projects programmed in the last year of SAFETEA are subject to the availability of OA. In the case that OA is not sufficient in this last year, the Commission would consider the option of carrying over unobligated projects into the beginning years of the SAFETEA Reauthorization. All funds must be obligated by May 31, 2009.

GENERAL PROGRAMMING POLICY

1. **Public Involvement.** MTC is committed to a public involvement process that is proactive and provides comprehensive information, timely public notice, full public access to key decisions, and opportunities for continuing involvement. For example, Transportation 2030 was developed under a highly comprehensive public involvement program, lasting nearly two years, which included but was not limited to summits, telephone polls, web-based surveys, thirty targeted workshops with specific stakeholder groups and workshops hosted by congestion management agencies in each of the nine Bay Area counties. MTC provides many methods to fulfill this commitment, as outlined in MTC Resolution No. 2648. Under the STP/CMAQ Program, Congestion Management Agencies (CMAs) are responsible for project selection for several categories of funding, for example the Local Streets and Roads Shortfall Rehabilitation Program. Hence, CMAs are required to comply with MTC's public outreach standards as outlined in CMA Guidelines for Public Involvement Strategy for Transportation 2030.

    - Hold public meetings to adequately cover the major population centers and sub-areas within the county. These meetings should be structured to ensure the inclusion of the views and concerns of low-income and minority communities covered under Title VI of the Civil Rights Act.
    - Provide for the public the key decision milestones in the process, so that interested residents can follow the process and know in advance when the CMA board will take action.
    - In addition to the public meetings above, provide and publicize opportunities for affected stakeholders to comment about county projects at regularly scheduled meetings of the CMA policy board.
    - Make a concerted effort to publicize meetings to a wide range of interest organizations and residents, including groups representing low-income and minority communities.

Furthermore, investments made in the STP/CMAQ program must be consistent with federal Title VI requirements. Title VI prohibits discrimination on the basis of race, color, income, and national origin in programs and activities receiving federal financial assistance. Public outreach to and involvement of individuals in low income and minority communities covered under Title VI of the Civil Rights Act and the Executive Order pertaining to Environmental Justice is critical to both local and regional decisions. Additionally, the CMAs must consider equitable solicitation and selection of project candidates in accordance with federal Title VI requirements.

2. **2005 and 2007 Transportation Improvement Programs (TIP)**. Projects approved, as part of the STP/CMAQ Third Cycle Program, must be amended into the 2005 TIP, which is currently in force, or into the new 2007 TIP, which will be adopted by MTC in July 2006. The federally required TIP is a comprehensive listing of all San Francisco Bay Area transportation projects that receive federal funds, and/or are subject to a federally required action, such as federal environmental clearance, and/or are regionally significant for air quality conformity or modeling purposes.

3. **Commission Approval of Programs and Projects**. Federal funds are not accessible to a project sponsor until its project funding is included or "programmed" in the Transportation Improvement Program (TIP). The following steps lead up to the final TIP programming action by the Commission, which constitutes the final approval of funding to a program or project:

   a) *Program Development* including the development of objectives, eligibility, and program rules. Staff develops federal funding programs in cooperation with the Partnership including public input; and takes the final program policy/rules or any subsequent revisions to the Commission for approval.

   b) *Selection of Projects:* A program and its policies, which are approved by the Commission, govern the selection of projects. Attachment B, "Project List", to Resolution 3723 sets forth the programs and projects to be funded under the Third Cycle Programming Policy. With the exception of indivisible projects/programs where no subsequent project selection occurs, many programs will require the subsequent selection of a set of projects that meet the program rules and criteria.

   Depending on project selection responsibility, there are two scenarios: a selection process managed by outside agency staff and their governing boards or a process undertaken by MTC staff and the Commission. In the first case, where the responsibility for project selection in the framework of a Third Cycle funding program is assigned to Congestion Management Agencies (CMAs) or other outside agencies (i.e. County TLC Program, Local Streets and Roads Rehabilitation Shortfall Program), Attachment B will be amended by MTC's Executive Director to reflect actions taken by the Commission to amend the projects in the TIP. However, in the second case where responsibility for project selection in the framework of a Third Cycle funding program is assigned to MTC staff, any amendments to Attachment B will initially be taken to the Commission for their information and approval; and will be accompanied by a TIP Amendment, concurrently taken to the Commission for approval.

   c) *TIP amendment*: All projects selected for funding in the Third Cycle program must be in the TIP. Therefore, MTC will take action on each project as the funds are included in a TIP Amendment. MTC's Executive Director will update Attachment B to reflect approval of the funds in the TIP.

4. **Air Quality Conformity.** In the Bay Area, it is the responsibility of MTC to make an air quality conformity determination for the TIP in accordance with federal Clean Air Act requirements and Environmental Protection Agency (EPA) conformity regulations. MTC evaluates the impact of the TIP on regional air quality during the biennial update of the TIP. Since the 2005 air quality conformity finding has been completed for the 2005 TIP, any non-exempt projects funded by the Third Cycle program that were not incorporated in the finding need to be incorporated into the conformity analysis as part of the 2007 TIP development process in Spring 2006.

5. **Environmental Clearance.** Project sponsors are responsible for compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 2l000 et seq.), the State Environmental Impact Report Guidelines (l4 California Code of Regulations Section l5000 et seq.), and the National Environmental Protection Act (42 USC Section 4-1 et seq.) standards and procedures for all projects with Federal funds.

6. **Application, Resolution of Local Support, and Opinion of Legal Counsel.** Project sponsors/implementing Agencies must submit a completed project application for each project proposed for funding. The project application consists of three parts: 1) an online application or amendment to an existing TIP project accessible through MTC's WebFMS system at http://www.mtc.ca.gov/funding/fms_intro.htm, 2) Resolution of Local Support approved by the Project Sponsor/ Implementing Agency's Board, and 3) Opinion of Legal Counsel. Sponsors of projects that have previously received STP/CMAQ or FTA funds do not need to submit a new Resolution of local support or opinion of Legal Counsel. Refer to MTC's website for templates of the Resolution of Local Support and Opinion of Legal Counsel.

7. **Project Screening and Compliance with Regional and Federal Requirements:** MTC staff will perform a review of projects proposed for the Third Cycle STP/CMAQ Program to ensure 1) eligibility; 2) RTP consistency; and 3) project readiness. In addition, sponsors must adhere to directives related to non-motorized travel and regional delivery policy, and have the required local matches.

    ▶ Federal Project Eligibility: STP has a wide range of projects that are eligible for consideration in the TIP. Eligible projects include, federal-aid highway and bridge improvements (construction, reconstruction, rehabilitation, resurfacing, restoration, and operational), mitigation related to an STP project, public transit capital improvements, pedestrian, and bicycle facilities, and transportation system management, transportation demand management, transportation control measures, surface transportation planning activities, and safety. More detailed eligibility requirements can be found in Section 133 of Title 23 of the United States Code.

    CMAQ funding applies to new or expanded transportation projects, programs, and operations that help reduce emissions. Eligible project categories that meet this basic criteria include: Transportation activities in approved State Implementation Plan (SIP), Transportation Control Measures (TCMs), public-private partnerships, alternative fuels, traffic flow improvements, transit projects (facilities, vehicles, operating assistance up to three years, and fare subsidies), bicycle and pedestrian facilities and programs, travel demand management, outreach and rideshare activities, telecommuting programs, fare subsidy programs, intermodal freight, planning and project development activities, Inspection and maintenance programs, magnetic levitation transportation technology deployment program, and experimental pilot projects. For more detailed guidance see the CMAQ Program Guidance (FHWA, April 1999).

    ▶ RTP Consistency: Projects included in the Third Cycle STP, CMAQ, Program must be consistent with the adopted Regional Transportation Plan (RTP), which federal law requires be consistent with federal planning and programming requirements. Each project to be included in the Third Cycle Program must identify its relationship with meeting the goals and objectives of the RTP, and where applicable, the RTP ID number or reference.

▶ Accommodations for Bicyclists, Pedestrians and Persons with Disabilities: Federal, state and regional policies and directives emphasize the accommodation of bicyclists, pedestrians, and persons with disabilities when designing transportation facilities. Of particular note is Caltrans Deputy Directive 64 which stipulates: "pedestrians, bicyclists and persons with disabilities must be considered in all programming, planning, maintenance, construction, operations, and project development activities and products." MTC's Regional Bicycle Plan, adopted as a component of the 2001 RTP, requires that "all regionally funded projects consider enhancement of bicycle transportation consistent with Deputy Directive 64". Furthermore, in selecting projects, the CMAs and project sponsors must consider other federal, state and regional policies and directives regarding non-motorized travel

▶ Regional Project Delivery Policy. Third Cycle STP/CMAQ funding is available in the following three fiscal years: FY 2006-07, 2007-08, and 2008-09. Funds may be programmed in any one of these years, conditioned upon the availability of obligation authority (OA). However, funds MUST be obligated in the fiscal year programmed in the TIP, with all Third Cycle funds to be obligated no later than May 31, 2009. Specifically, the funds must be obligated by FHWA or transferred to Federal Transit Administration (FTA) within Federal Fiscal Year that the funds are programmed in the TIP.

All Third Cycle funding is subject to the regional Project-Funding Delivery Policy and any subsequent revisions (MTC Resolution No. 3606). Obligation deadlines, project substitutions and redirection of project savings will continue to be governed by the MTC Regional Project Funding Delivery Policy, which enforces fund obligation deadlines, and project substitution for STP and CMAQ funds. All funds are subject to new award, invoicing and project close out requirements. Project sponsors must sign project supplementary agreements and award construction contracts within six months of obligation; and subsequently request reimbursements every six months. The failure to meet these deadlines will result in the deobligation of any unexpended fund balances for the project.

▶ Local Match. Projects funded with STP or CMAQ funding requires a non-federal local match. Based on California's share of the nation's federal lands, the local match for STP and CMAQ is 11.47% of the total project cost. The FHWA will reimburse up to 88.53% of the total project cost. Project sponsors are required to provide the non-federal match, which is subject to change.

▶ Fixed Program and Specific Project Selection. Projects are chosen for the program based on eligibility, project merit, and deliverability within the established deadlines. The regional STP/CMAQ program is project specific and the STP and CMAQ funds programmed to projects are for those projects alone. The STP/CMAQ Program funding is fixed at the programmed amount; therefore, any cost increase may not be covered by additional STP and CMAQ funds. Project sponsors are responsible for securing the necessary non-federal match, and for cost increases or additional funding needed to complete the project including contingencies.

THIRD CYCLE FUND ESTIMATE

Over the life of SAFETEA, based on the most recently available estimates, $900 million is anticipated to come to the Metropolitan Transportation Commission. To date, the Commission has programmed three of the five years of SAFETEA or roughly $600 million: First Cycle, including the Augmentation Round, represented fiscal years 2003-04 and 2004-05, and Second Cycle represented FY 2005-06 and 2006-07. This leaves a fund estimate of $300 million in programming capacity to fund MTC programs during Third Cycle. This Third Cycle Policy fully programs the uncommitted balance of SAFETEA. Nonetheless, MTC staff will be tracking FHWA refinements to revenue forecasts this autumn and will continue to pursue future opportunities to capture obligation authority over the tenure of the SAFETEA time period from other regions in the State, which could realize additional federal funding for a possible future "bonus" round of programming.

SAFETEA (STP & CMAQ) MTC Region	**(millions of $)**
SAFETEA Estimated Revenues to the MTC Region	$900
Committed Funding (over first and second cycle programming policies)	$600
Total Available for Third Cycle Programming	$300

THIRD CYCLE FUNDING OBJECTIVES AND PROGRAMMING CATEGORIES

FUNDING OBJECTIVES

The proposal directs the newly available programming increment of $300 million to address transportation needs. There were preliminary discussions about the framework of the Third Cycle program starting with the development of Second Cycle. The rationale for establishing this framework is that a number of programs – such as TLC/HIP and Regional Bike/Pedestrian were being delayed to accommodate obligation authority (OA) carryover from TEA-21, as well as critical rehabilitation needs, and stalled State Transportation Improvement Program (STIP) project needs. The Third Cycle funding proposal as presented in Table 1 reflects those commitments as embodied in Resolution 3615, which essentially continues funding established STP/CMAQ supported programs into the Third Cycle up to the $300 million available.

PROGRAMMING CATEGORIES

The approach in the development of Third Cycle Programming Policy has been based largely on the continuation of those programs established in early cycles of SAFETEA programming. These programs as discussed earlier have a basis in the transportation needs identified in Transportation 2030. Table 1 below presents overall proposed Third Cycle funding commitments followed by a detailed discussion of the program categories. Appendix A-1 provides a summary of all the funding categories under the Third Cycle Program and their policies. Furthermore, specific information on some of the eligible projects and distribution methodology are presented in Appendices A-2 through A-6.

Table 1: Third Cycle Funding Proposal Summary

Funding Categories	Proposed 3rd Cycle Commitments Rounded to $ Millions
1. Clean Air	$17
2. Regional Operations	$44
3. CMA Planning Activities	$12*
4a. Local Streets and Road Shortfall	$66
4b. Transit Capital Shortfall	$64
5. TLC/HIP	$74
6. Regional Bike/Pedestrian	$24
TOTAL Commitments:	$301

*Approximately $1M of this amount is made available from the deobligation of the Golden Gate Suicide Barrier Study programmed in First-Cycle Augmentation.

1. The Clean Air Program

($17 million) This category focuses on two specific programs: Spare the Air and the Eastern Solano CMAQ. The region has confirmed its commitment towards contributing regional funds to the Spare the Air campaign, and the project sponsor will apply for funding directly through MTC.

The Bay Area Air Quality Management District, established the Spare the Air Program in 1991, to reduce air pollution and provide advance notice when a "bad air day" (a day when air quality is forecast to exceed federal standards) is likely to occur. The Third Cycle Policy continues the $1 million annual contribution to the BAAQMD for the Spare the Air program, as previously committed. A component of this program is the Free Transit Commute Campaign whereby commuters are given free transit rides during the a.m. peak on a designated “Spare the Air Day”. This program would be expanded for the duration of SAFETEA. This requires an additional $5 million annually for three years beginning in FY 2006-07 for the Free Transit Commute Campaign (the timing of the Spare the Air season is realigned to recognize that next year’s season will occur in FY 2006-07). Unused balances of Second Cycle funding, owing to fewer than expected free transit days will offset three million dollars of this amount. These efforts are meant to address the Bay Area’s non-attainment status for the 8-hour ozone standard.

The Partnership had voiced concerns about the effectiveness and proposed level of funding for the Spare the Air – Free Transit Program. As a result the Partnership and the Air District agreed that the program’s funding needs would be reconfirmed based on the evaluation of program effectiveness after the FY 2006-07 “Spare the Air” season. The results of this evaluation, would either support the proposed programming to the Spare the Air Program or provide a basis for reducing the required level of funding for the Spare the Air Program redirecting any residual funds not used by the program to address on-going air quality goals.

The administration of the Eastern Solano CMAQ funds differs. The basis of this program is the distinct CMAQ apportionment that MTC receives from Eastern Solano County in the Sacramento air basin, a separate air basin from the Bay Area Quality Management District’s. MTC works with the Solano Transportation Authority (STA) to program CMAQ eligible projects in the Eastern portion of Solano County in consultation with the Sacramento Area Council of Governments (SACOG). According to a mutual memorandum of understanding, priority for this funding is guided by any TCMs adopted by the District. MTC staff has met with Solano Transportation Authority staff to discuss the Eastern Solano CMAQ apportionments for Third Cycle. An agreement was reached whereby MTC retained a portion of the CMAQ apportioned to Eastern Solano County (Sacramento Air Basin) to fund regional programs and projects that directly benefit this geographic area and are CMAQ eligible. STA would receive approximately $2.5 million in the Third Cycle two-year period. The STA will develop their project listing in consultation with SACOG. All projects must physically lie or directly impact the Eastern Solano portion of the county and must be eligible for CMAQ funding.

2. Regional Operations Programs
($44 million) The projects eligible for this funding category include TransLink®, 511 TravInfo®, Regional Rideshare, Marketing, Transit Info, Incident Management, Freeway Operation Systems, and Performance Monitoring. These projects are administered at the regional level and are administered as operational programs.

(See Appendix A-2 for program breakdown of this funding category.)

3. CMA Planning Activities
($12 million) The Congestion Management Agencies (CMAs) proposed increasing the level of STP funding (also known as STP 3% Planning Funds) that is provided to them for staff functions to support the administration of MTC program and project monitoring functions. During the First and Second Cycles, each CMA was guaranteed a minimum of $240,000, an increase from the minimum threshold of $140,000 provided during TEA 21.

In response to this request, approximately $3.6 million in additional funds is reserved at this time to increase planning support. Roughly $1.2 million (or $135,000 per county) is proposed as the increased funding level for each of the three years in the next STP 3% Planning Fund agreement period, which covers FY 2006-07 to FY 2008-09. A portion of this increase (approximately $1M) is offset by funding coming from the STP funds deobligated from the Golden Gate Suicide Barrier Study (funded in First-Cycle Augmentation), which was provided STP Exchange funds due to a federal ineligibility determination.

(See Appendix A-3 for a detailed program breakdown.)

4a. Local Streets and Roads Rehabilitation Shortfall
($66 million) This program directs funding to the Local Streets and Road Rehabilitation Shortfall (LSRS) Program and distributes funds based on a hybrid of the county T2030 funding shortfalls and the proposed new methodology for the next long-range plan. Through the T2030 process, county shortfall figures have been identified. Project solicitations will be conducted by the CMAs. Thereafter, each CMA will submit their approved project list of funding requests to MTC for final program approval.

(See Appendix A-4 for program breakdown.)

- Funds for LSR Rehabilitation will be distributed to the counties based on a “hybrid” formula that takes an average between the LSR distribution formula used in the Second Cycle, based on T2030 identified local streets and roads rehabilitation shortfalls; and the new proposed LSRS distribution formula, as developed by the Local Streets and Roads Committee and agreed to by the Partnership. The hybrid approach serves to transition from the old methodology to the new one. The new formula uses factors beyond a needs basis such as population, lane mileage, rehabilitation shortfalls, and performance criteria. The new formula would be applied to future cycles of the program. As with the Cycle 2 Programming, the County CMAs will select which projects are to receive LSRS Program funding within their respective counties.

- Eligible projects include pavement and non-pavement elements on public roads functionally classified above rural minor collector (federal-aid eligible facilities). This includes placement of additional pavement surfacing and/or other work necessary to return an existing structure or roadway, including shoulders, to a serviceable condition. Generally, the eligible non-pavement activities and projects are replacement of features that currently exist on the roadway facility. Pavement rehabilitation and preventive maintenance strategies should extend the service life of a facility for a minimum of 5 years. This program does not fund routine maintenance projects.

- Capacity-expansion projects, right of way purchases, channelization, routine maintenance, spot application, seismic retrofit, and structural repair on bridges are not eligible activities. Non-pavement enhancements, such as streetscape projects and new traffic calming features, are also not eligible for this program. Each CMA may apply additional program criteria, as long as the modifications are consistent with the Second Cycle Programming Policy.

- MTC’s pavement management system, StreetSaver™, is used by 107 of the 109 cities and counties in the Bay Area and the software has been instrumental in accurately establishing the rehabilitation needs of local streets and roads in the region. The proposed projects must be based on the analysis results from an established Pavement Management System (PMS) for a jurisdiction. The sponsoring agency must have a certified PMS, MTC’s or equivalent, for submitting rehabilitation and preventive maintenance projects. MTC is responsible for verifying the certification status. A list of jurisdiction certification status can be found at www.mtcpms.org/ptap/cert.html.

- The STP funds available for programming are assigned from federal apportionments in fiscal years (FYs) 2007-08, and 2008-09. LSRS funds can be programmed in any of these two years, and also may be advanced and programmed in FY 2006-07 based on project sponsor needs. The actual availability of federal funds is contingent upon the availability of obligation authority (OA), and all funds must be obligated by May 31, 2009.

- $0.8 million STP funding will be taken off the top of the program to fund the continuation of the Pavement Technical Assistance Program (PTAP) for one year (FY

2007-08). The remainder of the program funding $65.2 million will be distributed to the Counties for programming to local streets and road rehabilitation projects. Further commitments to sustain the PTAP program as a regionally funded program will be taken up as part of the development of the next Regional Transportation Plan.

- California Streets and Highways Code Section 182.6(d)(2) requires that a portion of STP funds be set aside and guaranteed for use by each county, based on 110% of the apportionment of Federal Aid Secondary (FAS) (rural) funding in FY 1990-91. MTC staff have been tracking the FAS set-aside requirement and are aware of three counties that have not received their guaranteed set aside for the SAFETEA period, and will therefore need to receive guaranteed funding in the Third Cycle LSRS Program. These counties are: Alameda County ($987,000); Contra Costa County ($902,000); and Solano County ($1,056,000). With the programming of these amounts to these counties in Third Cycle, all counties will have met the FAS set aside requirements for the SAFETEA period. This requirement does not preclude counties from being programmed more funding than is required by the statute.

4b. Transit Capital Rehabilitation Shortfall
($64 million) This program funds transit rehabilitation projects and is being held in reserve pending discussions by the Partnership and among general managers of transit properties in the Bay Area. The Third Cycle Programming Policy will be amended to reflect the consensus on how this funding should be applied to transit rehabilitation needs in the region. Staff is anticipated to bring the project selection policies for this program back to the Commission for consideration in Fall 2006.

In October 2006, the Commission amended this policy to direct approximately $4.6 million of the funds held in reserve for the transit capital rehabilitation shortfall to AC Transit's Bus Replacement project. AC Transit will replace 71 federal buses scheduled for replacement in 2009 with 50 buses in 2006. The difference will be a net reduction to their fleet and not eligible for replacement through Transit Capital Priorities. The buses AC Transit proposes to purchase do not currently meet the federal Buy America provision. Therefore, the STP funds will be directed to the Alameda County Congestion Management Agency (ACCMA) for an STP-eligible capital project. In exchange, ACCMA has programmed the AC Transit bus project using non-federal STIP funds.

In April 2007, the Commission amended this policy to select two additional projects to be funded from the Transit Capital Shortfall Program: the BART Car Replacement program ($45,365,000) and the Zero Emission Bus Advanced Demonstration program ($14,058,000). The funding to meet BART's future fleet replacement needs is at a level consistent with Second Cycle funding for this purpose, or $22.7 million annually. The Zero Emission Bus Advanced Demonstration is required to meet a regulation of the California Air Resources Board. The affected operators are considering procuring Van Hool ZEBs, which do not meet the federal Buy America requirements and are not eligible for federal funds. Operators would, therefore, have to identify their own local funds as a swap for the federal STP/CMAQ funds, which must be obligated/transferred to FTA no later than May 31, 2009.

The table below identifies the funding targets for the transit capital shortfall element.

Project	STP Funding
ACCMA (AC Transit's Early Bus Replacement Swap)	$4,577,000
BART Car Replacement	$45,365,000
Zero Emission Bus Advanced Demonstration	$14,058,000
Total	$64,000,000

5. Transportation for Livable Communities/Housing Incentive Program (TLC/ HIP)
($74 million) The TLC/HIP category encompasses TLC/HIP Planning Grants, Regional TLC Capital Grants, the Regional Housing Incentive Program, the County TLC/HIP, and the nascent Station Area Plan Program. The TLC/HIP is a grant program intended to help municipalities plan and construct community-oriented transportation projects. The program is administered through a separate call for projects and program guidelines and criteria. The Regional TLC/HIP program is administered by MTC staff and is regionally competitive. The County TLC/HIP program is funded by federal Transportation Enhancement (TE) and CMAQ funding and is selected by the region's congestion management agencies. The Station Area Planning Program was launched by the Commission as a pilot program in July 2005 to support MTC's Transit Oriented Development Policy. The Station Area Planning Program will fund specific plans, zoning amendments, and station access designs to assist local jurisdictions with meeting corridor-level development thresholds as directed by the TOD policy. Twenty-four plans are to be prepared under the Third Cycle Station Area Planning program.

The CMAQ funds available for programming are assigned from federal apportionments in fiscal years (FYs) 2007-08, and 2008-09 to the CMAs for programming to local TLC/HIP projects through the County TLC/HIP program. Funds may be programmed in any of these two years, and also may be advanced and programmed in FY 2006-07 based on project sponsor needs. The actual availability of federal funds is contingent upon the availability of obligation authority (OA), and all CMAQ funds must be obligated by May 31, 2009. This program is also supplemented by federal Transportation Enhancement (TE) Funding, which is programmed by the CMAs through the STIP. During Second Cycle programming it was assumed that $27.839 million in TE funding would be available for the County TLC program. However, The California Transportation Commission has revised its TE estimates in the 2006 STIP Fund Estimate reducing the TE funding by $1.944 million. The TE and CMAQ funding now available for the County TLC/HIP program is $0 (zero) in First Cycle, $9.0 million in Second cycle and $25.895 million in Third Cycle for a total of $34.895 million. (See Appendix A-5 for County TLC/HIP program breakdown)

The projects selected to receive TLC/HIP grants will be incorporated into the Third Cycle Program through a TIP Amendment. The next "call for projects" for the TLC Capital Program and the Station Area Planning Program be held in Spring 2006, with a proposed project list anticipated by October 2006 to be amended into the 2007 TIP.

6. Regional Bicycle and Pedestrian Program

($24 million) This is a grant program, funded at $8 million annually and is administered as a separate program by MTC in cooperation with the CMAs. This program debuted in the STP/CMAQ Second Cycle program, adopted through the T2030 Phase 1 decisions. The program is designed to fund regionally significant bicycle and pedestrian projects. Geographic equity will be ensured over time, with each county receiving a minimum of 75% of their population share in any given grant cycle. The region will select projects for the remaining 25 %. CMAs select projects for the 75% and submit a prioritized project list for the 25% share to the region. From the prioritized list of projects from each county, the region will select a final set of projects to be awarded the 25% funding. Over a 12-year programming period, counties will receive 100% of their county population share.

Over the course of SAFETEA the Regional Bicycle and Pedestrian Program (RBPP) was envisioned to receive $32 million for the four- year period from FY 2005-06 through 2008-09. For the Second cycle, a single call for projects for the regionally competitive program took place last winter and $8 million (25% of the program) was programmed in June 2005. In the Third Cycle, the remaining $24 million ($8 million was deferred from Second cycle) will fund the County Regional Bicycle and Pedestrian Program, being programmed at the discretion of the county congestion management agencies.

The CMAQ funds available for programming are assigned from federal apportionments in fiscal years (FYs) 2007-08, and 2008-09. Funds can be programmed in any of these two years, and also may be advanced and programmed in FY 2006-07 based on project sponsor needs. The actual availability of federal funds is contingent upon the availability of obligation authority (OA), and all funds must be obligated by May 31, 2009.

A CMAQ crediting option is available to counties with existing sales tax measures that commit a minimum of 5% of the sales tax measure funds to bicycle and pedestrian projects. Alameda and San Francisco County are the two counties meeting this threshold and are eligible for exercising the crediting option. The crediting option allows these counties to receive a CMAQ credit (of up to 60% of their 75% population-share funding distribution in the Regional Bicycle and Pedestrian Program) for county sales tax measure funds dedicated to regional bicycle and pedestrian projects. The CMAQ credit can be used on any CMAQ eligible project in the county. (See Appendix A-6 for program breakdown.)

SCHEDULE

Third Cycle addresses SAFETEA apportionments over two fiscal years: FY 2007-08 and FY 2008-09. The majority of programming will occur in these two years. However, MTC staff is accepting requests to program the Third Cycle increment of funding in the year preceding these two years, FY 2006-07 to assist the region to better manage obligation authority.

Funding for those programs and projects needing to be programmed in FY 06-07 will be on an expedited schedule in order to be included in the current 2005 as a TIP amendment no later than the February 2006. This deadline is necessary in order to give sponsors enough time to meet FY 06-07 obligation deadlines and to accomplish programming before the 2005 TIP is “shut down” as a prelude to developing the new 2007 TIP from March through June 2006.

In contrast, programs and projects wishing to program funding in FY 07-08 or FY 08-09 need to wait until the development of the new 2007 TIP, which will newly incorporate these two years of programming. Projects can be added in Spring 2006 as part of the 2007 TIP development process or wait to amend into the 2007 TIP after it is approved by the U.S. Department of Transportation anticipated October 2006. After the approval of the 2007 TIP, TIP amendments will be accepted on an ongoing basis.

Additionally, some programs, such as the Regional Bicycle and Pedestrian Program and the County TLC/HIP programs, are administered at the congestion management agency level. MTC staff is allowing CMAs broad latitude in the programming schedule providing that all of the projects are obligated prior to May 31, 2009. As a result many of the program schedules have not yet been determined. Consequently, refer to Appendix A-1 for specifics on the schedules of the various programs under the Third Cycle STP/CMAQ Policy.

PROJECT LIST

Refer to Attachment B of Resolution 3723, which contains the list of projects to be programmed under the SAFETEA STP/CMAQ Third Cycle Program. MTC staff will update the attachment to reflect Commission actions taken to include projects or project amendments in the TIP.

APPENDIX A-1: THIRD CYCLE PROGRAM AND POLICIES SUMMARY

PROGRAM	Eligible Projects	Level of Project Solicitation (How to Apply for funding)	Timing of Project Solicitations/ Programming	AVAILABLE FUNDING
1. Clean Air	This program category aims to support projects and programs that reduce air pollutants. Third Cycle has identified Spare the Air project, Free Transit Commute Campaign, and CMAQ projects in Eastern Solano County as eligible projects.	E. Solano CMAQ Projects – CMA will solicit projects and subsequently submit an approved list of projects to MTC for final approval into the TIP. Spare the Air and Free Transit Commute Campaign -- BAAQMD will apply directly through MTC	TBD April 2006	$17 million
2. Regional Operations	This program category aims to manage the regional transportation system to improve the transportation system for users through traffic management, traveler information efforts, and transit service improvements.	MTC will program these projects directly into the TIP.	April 2006	$44 million
3. CMA Planning Activities	3% STP Planning and T-PLUS.	MTC will program these funds directly into the TIP.	CMA Planning Funds – April 2006	$11 million
4a. Local Streets and Roads Rehabilitation Shortfall	Local roadway rehabilitation projects on the Federal-Aid System. $0.8 million of this program will be used to fund the continuation of the Pavement Technical Assistance Program (PTAP).	CMAs will solicit projects and subsequently submit an approved list of projects to MTC for final approval. MTC will program these funds directly into the TIP.	TBD by each CMA to be obligated no later than FY 2008-09 April 2006	$66 million
4b. Transit Capital Rehabilitation Shortfall	To be held in reserve pending discussions with the General Mangers and the Partnership.	N/A	TBD	$64 million

APPENDIX A-1: THIRD CYCLE PROGRAM AND POLICIES SUMMARY (CONTINUED)

PROGRAM	Eligible Projects	Level of Project Solicitation (How to Apply for funding)	Timing of Project Solicitations/ Programming	AVAILABLE FUNDING
5. TLC/HIP & Station Area Planning	TLC/HIP Capital Program, TLC/HIP Planning Program, and Station Area Planning Program County TLC/HIP Program	MTC will solicit projects and program into the TIP The CMAs will select projects for the County TLC/HIP Program and subsequently submit an approved list of projects to MTC for final approval into the TIP.	First Call Spring 2006; Future TBD TBD by each CMA to be obligated no later than FY 2008-09	$74 million
6. Regional Bicycle and Pedestrian	Third Cycle funding will be directed to the County component of the RBP Program. The regionally competitive component was programmed in the Second Cycle.	The CMAs will select projects for the County RBP Program and subsequently submit an approved list of projects to MTC for final approval.	TBD by each CMA to be obligated no later than FY 2008-09	$24 million
Total Third Cycle Program:				$300 million